

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

DONALD J. TRUMP,

Plaintiff,

- against -

CYRUS R. VANCE, JR., in his official capacity  
as District Attorney of the County of New  
York;

and

MAZARS USA, LLP,

Defendants.

Case No. **19CV8694**

**JUDGE MARRERO**

**DECLARATION OF WILLIAM S. CONSOVOY**

I, William S. Consovoy, declare:

1. I am an attorney at the law firm Consovoy McCarthy PLLC, counsel for Plaintiff in the above-captioned action.

2. I am over the age of eighteen and am under no mental disability or impairment. I have personal knowledge of the following facts and, if called as a witness, would competently testify to them.

3. Exhibit A to this declaration is a true and accurate copy of an August 29, 2019 grand-jury subpoena issued by Solomon Shinerock, on behalf of the District Attorney of the County of New York, to Mazars USA, LLP.

4. Exhibit B to this declaration is a true and accurate copy of an August 1, 2019 grand-jury subpoena issued by Solomon Shinerock, on behalf of the District Attorney of the County of New York, to The Trump Organization.

5. Exhibit C to this declaration is a true and accurate copy of a September 18, 2019 letter from Plaintiff's attorneys to Christopher Conroy of the New York County District Attorney's office.

Per 28 U.S.C. § 1746, I declare under penalty of perjury that the above is true and correct.

Executed on September 19, 2019

/s/ William S. Consovoy 

William S. Consovoy

CONSOVOY MCCARTHY PLLC

1600 Wilson Blvd., Ste. 700

Arlington, VA 22209

(703) 243-9423

will@consovoymccarthy.com

# Exhibit A

**DISTRICT ATTORNEY**  
OF THE  
**COUNTY OF NEW YORK**  
ONE HOGAN PLACE  
New York, N. Y. 10013  
(212) 335-9000



**CYRUS R. VANCE, JR.**  
DISTRICT ATTORNEY

August 29, 2019

**VIA HAND DELIVERY**

Mazars USA LLP  
Attn: Custodian of Records  
135 West 50<sup>th</sup> Street  
New York, NY 10020

**Re: Investigation Number 2018-00403803**  
**Return Date: September 19, 2019**


To Whom It May Concern:

Enclosed please find a subpoena seeking records relating to the above-referenced investigation. These records are needed on or before September 19, 2019.

In lieu of appearing personally with the requested data, you may email electronic copies to paralegal Daniel Kenny ([kennyd@dny.nyc.gov](mailto:kennyd@dny.nyc.gov)) or deliver CDs, DVDs, or USB 2.0 external hard drives to the New York County District Attorney's Office, 80 Centre Street, Major Economic Crimes Bureau, New York, NY 10013, for the attention of Assistant District Attorney Solomon Shinerock, c/o Daniel Kenny. Please note that electronic copies are preferred.

If you have any problems or questions concerning the subpoena or the manner of delivery, please contact me at the number below. Your attention to this matter is greatly appreciated.

Respectfully yours,

  
Solomon Shinerock  
Assistant District Attorney  
(212) 335-9567

Enc.

# **SUBPOENA**

(Duces Tecum)

FOR A WITNESS TO ATTEND THE

## **GRAND JURY**

In the Name of the People of the State of New York

**To: Custodian of Records  
Mazars USA LLP**

**YOU ARE COMMANDED** to appear before the **GRAND JURY** of the County of New York, at the Grand Jury Room 907, of the Criminal Courts Building at One Hogan Place, between Centre and Baxter streets, in the Borough of Manhattan of the City, County and State of New York, on September 19, 2019 at 2:00 p.m. of the same day, **as a witness in a criminal proceeding:**

**Investigation into the Business and Affairs of John Doe (2018-00403803).**

**AND, YOU ARE DIRECTED TO BRING WITH YOU AND PRODUCE AT THE TIME AND PLACE AFORESAID, THE FOLLOWING ITEMS IN YOUR CUSTODY:**

**SEE EXHIBIT A – ATTACHED**

**IF YOU FAIL TO ATTEND AND PRODUCE SAID ITEMS, you may be adjudged guilty of a Criminal Contempt of Court, and liable to a fine of one thousand dollars and imprisonment for one year.**

Dated in the County of New York,  
August 29, 2019

**CYRUS R. VANCE, JR.  
District Attorney, New York County**

By:

  
Solomon Shinerock  
Assistant District Attorney  
(212) 335-9567

**Note:** In lieu of appearing personally with the requested documents, you may email electronic copies to paralegal Daniel Kenny (kennyd@dany.nyc.gov) or deliver CDs, DVDs, or USB 2.0 external hard drives to the New York County District Attorney's Office, 80 Centre Street, Major Economic Crimes Bureau, New York, NY 10013, for the attention of Assistant District Attorney Solomon Shinerock, c/o Daniel Kenny.

Inv. Number: 2018-00403803

**EXHIBIT A TO SUBPOENA TO MAZARS USA LLP**  
**DATED AUGUST 29, 2019**

ITEMS TO BE PRODUCED are those in the actual and constructive possession of Mazars USA LLP, its related predecessors, entities, agents, officers, employees and officials over which it has control, including without limitation subsidiaries:

1. For the period of January 1, 2011 to the present, with respect to Donald J. Trump, the Donald J. Trump Revocable Trust, the Trump Organization Inc., the Trump Organization LLC, the Trump Corporation, DJT Holdings LLC, DJT Holdings Managing Member LLC, Trump Acquisition LLC, Trump Acquisition, Corp., the Trump Old Post Office LLC, the Trump Foundation, and any related parents, subsidiaries, affiliates, joint ventures, predecessors, or successors (collectively, the "Trump Entities"):
  - a. Tax returns and related schedules, in draft, as-filed, and amended form;
  - b. Any and all statements of financial condition, annual statements, periodic financial reports, and independent auditors' reports prepared, compiled, reviewed, or audited by Mazars USA LLP or its predecessor, WeiserMazars LLP;
  - c. Regardless of time period, any and all engagement agreements or contracts related to the preparation, compilation, review, or auditing of the documents described in items (a) and (b);
  - d. All underlying, supporting, or source documents and records used in the preparation, compilation, review, or auditing of documents described in items (a) and (b), and any summaries of such documents and records; and
  - e. All work papers, memoranda, notes, and communications related to the preparation, compilation, review, or auditing of the documents described in items (a) and (b), including, but not limited to,
    - i. All communications between Donald Bender and any employee or representative of the Trump Entities as defined above; and
    - ii. All communications, whether internal or external, related to concerns about the completeness, accuracy, or authenticity of any records, documents, valuations, explanations, or other information provided by any employee or representative of the Trump Entities.

## DEFINITIONS AND INSTRUCTIONS

As used herein, unless otherwise indicated, the following terms shall have the meanings set forth below:

- A. The terms “relate,” “reference,” “concern,” “reflect,” “include,” and “including without limitation,” in whatever tense used, shall be construed as is necessary in each case to make the request to produce inclusive rather than exclusive, and are intended to convey, as appropriate in context, the concepts of comprising, respecting, referring to, embodying, evidencing, connected with, commenting on, concerning, responding to, showing, refuting, describing, analyzing, reflecting, presenting, and consisting of, constituting, mentioning, defining, involving, explaining, or pertaining to in any way, expressly or impliedly, to the matter called for.
- B. The words “and,” “or,” “any” and “all” shall be construed as is necessary in each case to make each request to produce inclusive rather than exclusive.
- C. Terms in the plural include the singular and terms in the singular include the plural. Terms in the male include the female and terms in the female include the male. Neutral gender terms include all.
- D. “Document” includes without limitation, any written, printed, typed, photocopied, photographic, recorded or otherwise created or reproduced communication or representation, whether comprised of letters, words, numbers, pictures, sounds or symbols, or any combination thereof, in the form maintained, having access to, constructively possessed, physically possessed, and controlled. This definition includes copies or duplicates of documents contemporaneously or subsequently created that have any non-conforming notes or other markings, and drafts, preliminary versions, and revisions of such. It includes, without limitation, correspondence, memoranda, notes, records, letters, envelopes, telegrams, faxes, messages, emails, voice mails, instant messenger services, studies, analyses, contracts, agreements, working papers, summaries, work papers, calendars, diaries, reports. It includes, without limitation, internal and external communications of any type. It includes without limitation documents in physical, electronic, audio, digital, video existence, and all data compilations from which the data sought can be obtained, including electronic and computer as well as by means of other storage systems, in the form maintained and in usable form.
- E. “Communication” includes every means of transmitting, receiving or recording transmission or receipt of facts, information, opinion, data, or thoughts by one person, and between one and more persons, entities, or things.

# **Exhibit B**





**CYRUS R. VANCE, JR.**  
DISTRICT ATTORNEY

**DISTRICT ATTORNEY**  
OF THE  
**COUNTY OF NEW YORK**  
ONE HOGAN PLACE  
New York, N. Y. 10013  
(212) 335-9000

August 1, 2019

**VIA EMAIL ([marc.mukasey@mukaseylaw.com](mailto:marc.mukasey@mukaseylaw.com))**

The Trump Organization  
Attn: Custodian of Records  
727 Fifth Avenue  
New York, NY 10022

**Re: Investigation Number 2018-00403803**  
**Return Date: August 15, 2019**

To Whom It May Concern:

Enclosed please find a subpoena seeking records relating to the above-referenced investigation. These records are needed on or before August 15, 2019.

In lieu of appearing personally with the requested documents, you may email electronic copies to paralegal Daniel Kenny ([kennyd@dany.nyc.gov](mailto:kennyd@dany.nyc.gov)) or deliver CDs, DVDs, or USB 2.0 external hard drives to the New York County District Attorney's Office, 80 Centre Street, Major Economic Crimes Bureau, New York, NY 10013, for the attention of Assistant District Attorney Solomon Shinerock, c/o Daniel Kenny. Please note that electronic copies are preferred.

To the extent that you withhold documents pursuant to a claim of privilege, please provide a log setting forth, as to each document, the legal basis for the claim of privilege, the type of document, its general subject matter, date, author, sender and recipient where applicable, and such other information as is sufficient to determine the claim of privilege.

If you have any problems or questions concerning the subpoena or the manner of delivery, please contact me at the number below. Your attention to this matter is greatly appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Solomon Shinerock", written over a horizontal line.

Solomon Shinerock  
Assistant District Attorney  
(212) 335-9567

Enc.

# SUBPOENA

(Duces Tecum)

FOR A WITNESS TO ATTEND THE

## GRAND JURY

In the Name of the People of the State of New York

To: **Custodian of Records  
The Trump Organization**

**YOU ARE COMMANDED** to appear before the **GRAND JURY** of the County of New York, at the Grand Jury Room 907, of the Criminal Courts Building at One Hogan Place, between Centre and Baxter streets, in the Borough of Manhattan of the City, County and State of New York, on August 15, 2019 at 2:00 p.m. of the same day, **as a witness in a criminal proceeding:**

Investigation into the Business and Affairs of John Doe (2018-00403803).

**AND**, YOU ARE DIRECTED TO BRING WITH YOU AND PRODUCE AT THE TIME AND PLACE AFORESAID, THE FOLLOWING ITEMS IN YOUR CUSTODY:


SEE EXHIBIT A – ATTACHED

**IF YOU FAIL TO ATTEND AND PRODUCE SAID ITEMS**, you may be adjudged guilty of a **Criminal Contempt of Court**, and liable to a fine of one thousand dollars and imprisonment for one year.

Dated in the County of New York,  
August 1, 2019

CYRUS R. VANCE, JR.  
District Attorney, New York County

By:

  
Solomon Shinerock  
Assistant District Attorney  
(212) 335-9567

**Note:** In lieu of appearing personally with the requested documents, you may email electronic copies to paralegal Daniel Kenny (kennyd@dany.nyc.gov) or deliver CDs, DVDs, or USB 2.0 external hard drives to the New York County District Attorney's Office, 80 Centre Street, Major Economic Crimes Bureau, New York, NY 10013, for the attention of Assistant District Attorney Solomon Shinerock, c/o Daniel Kenny.

Inv. Number: 2018-00403803

**EXHIBIT A TO SUBPOENA TO THE TRUMP ORGANIZATION**  
**DATED AUGUST 1, 2019**

ITEMS TO BE PRODUCED are those in the actual and constructive possession of the Trump Organization, its entities, agents, officers, employees and officials over which it has control, including without limitation its subsidiaries:

1. For the period of June 1, 2015, through September 20, 2018, any and all documents and communications that relate to, reference, concern, or reflect:
  - a. payments made for the benefit of or agreements concerning Karen McDougal,
  - b. payments made for the benefit of or agreements concerning Stephanie Clifford aka Stormy Daniels aka Peggy Peterson,
  - c. payments made to or agreements with Michael Cohen or American Media, Inc. that concern Karen McDougal or Stephanie Clifford aka Stormy Daniels aka Peggy Peterson,

including but not limited to documents and communications involving:

- Resolution Consultants LLC
- Essential Consultants LLC aka EC LLC
- Entities owned or controlled by Michael Cohen
- Michael Cohen
- David Dennison
- Keith Davidson
- Keith M. Davidson & Associates
- American Media, Inc.
- National Enquirer
- David Pecker
- Dylan Howard
- Hope Hicks
- Jill Martin
- Jeffrey McConney
- Deborah Tarasoff
- Donald Trump, Jr.
- Allen Weisselberg.

The items sought by this demand include without limitation: emails, memoranda, and other communications; invoices; agreements, including without limitation retainer agreements; accounting and other book entries or backup documents; general ledger records; wire transfer requests and related records, check images, bank statements, and any other evidence of payments or installments; and organizational documents and agreements, including without limitation articles of incorporations, limited liability agreements, and minutes of director or member meetings.

2. For the period of June 1, 2015, through September 20, 2018, any and all documents and communications that relate to, reference, concern, or reflect Michael Cohen's employment by or work on behalf of Donald Trump or the Trump Organization at any time, including without limitation:

invoices, payment records, human resource records, W2s, 1099s, emails, memoranda, and other communications.

3. For any responsive documents or communications withheld under a claim of privilege, please provide a log setting forth, as to each such document or communication, the legal basis for the claim of privilege, the type of document or communication, its general subject matter, date, author, sender and recipient where applicable, and such other information as is sufficient to determine the claim of privilege.

### DEFINITIONS AND INSTRUCTIONS

As used herein, unless otherwise indicated, the following terms shall have the meanings set forth below:

- A. The terms “relate,” “reference,” “concern,” “reflect,” “include,” and “including without limitation,” in whatever tense used, shall be construed as is necessary in each case to make the request to produce inclusive rather than exclusive, and are intended to convey, as appropriate in context, the concepts of comprising, respecting, referring to, embodying, evidencing, connected with, commenting on, concerning, responding to, showing, refuting, describing, analyzing, reflecting, presenting, and consisting of, constituting, mentioning, defining, involving, explaining, or pertaining to in any way, expressly or impliedly, to the matter called for.
- B. The words “and,” “or,” “any” and “all” shall be construed as is necessary in each case to make each request to produce inclusive rather than exclusive.
- C. Terms in the plural include the singular and terms in the singular include the plural. Terms in the male include the female and terms in the female include the male. Neutral gender terms include all.
- D. “Document” includes without limitation, any written, printed, typed, photocopied, photographic, recorded or otherwise created or reproduced communication or representation, whether comprised of letters, words, numbers, pictures, sounds or symbols, or any combination thereof, in the form maintained, having access to, constructively possessed, physically possessed, and controlled. This definition includes copies or duplicates of documents contemporaneously or subsequently created that have any non-conforming notes or other markings, and drafts, preliminary versions, and revisions of such. It includes, without limitation, correspondence, memoranda, notes, records, letters, envelopes, telegrams, faxes, messages, emails, voice mails, instant messenger services, studies, analyses, contracts, agreements, working papers, summaries, work papers, calendars, diaries, reports. It includes, without limitation, internal and external communications of any type. It includes without limitation documents in physical, electronic, audio, digital, video existence, and all data compilations from which the data sought can be obtained, including electronic and computer as well as by means of other storage systems, in the form maintained and in usable form.
- E. “Communication” includes every means of transmitting, receiving or recording transmission or receipt of facts, information, opinion, data, or thoughts by one person, and between one and more persons, entities, or things.

# Exhibit C

MUKASEY  
FRENCHMAN & SKLAROFF LLP

2 Grand Central Tower  
140 East 45th Street, Suite 17A  
New York, NY 10017

Marc L. Mukasey  
Partner  
212-466-6406  
[Marc.mukasey@mfsllp.com](mailto:Marc.mukasey@mfsllp.com)

September 18, 2019

**VIA EMAIL AND OVERNIGHT MAIL**

Christopher Conroy ([CONROYC@dany.nyc.gov](mailto:CONROYC@dany.nyc.gov))  
Chief, Major Economic Crimes Bureau  
District Attorney's Office, New York County  
One Hogan Place  
New York, NY 10013

**Re: Grand Jury Subpoena Duces Tecum to Mazars USA LLP**

Dear Mr. Conroy:

This letter addresses the issues discussed in today's meeting and our follow-up phone call.

As you know, we represent President Donald J. Trump and the Trump Organization in connection with a grand jury subpoena issued to Mazars USA LLP ("Mazars"). Mazars is the outside accountant to President Trump and the Trump Organization and, thus, is merely a custodian of the records sought by the subpoena. Our clients are the true parties-in-interest. We write to request, as we did at the meeting, that you temporarily suspend enforcement of the subpoena to allow for the proper and orderly resolution of the important constitutional issues raised therein. We submit that such a procedure best promotes the interests of fairness and justice—as well as respect for the Office of the President. **We are asking for a written statement from your office by 1pm on September 18, 2019, that you are willing to suspend enforcement of the Mazars subpoena pending further negotiation and/or litigation.**

By way of background, on August 1, 2019, your office issued a grand jury subpoena to the Trump Organization in connection with a certain investigation. Upon receipt of the subpoena, the Trump Organization immediately expressed its willingness to cooperate with your office and it has done so. The Trump Organization has produced hundreds of documents in response to the subpoena—including many that you identified as priority items—and additional responsive documents are being gathered, reviewed, and prepared for production. Notably, the subpoena does not call for the Trump Organization's tax returns. But when you nevertheless indicated otherwise, we agreed to meet and discuss the issue. In the meantime, the Trump Organization has maintained an open line of communication with your office, adhered to deadlines, and conducted itself in a cordial and amicable manner.

Two weeks ago, you issued a grand jury subpoena to Mazars in connection with the same investigation. That subpoena calls for Mazars to produce, among other things, many years of President Trump's personal tax returns and those of the Trump Organization. The subpoena is returnable on September 19, 2019, and, thus far, you have refused to grant Mazars an extension of time to produce the requested documents.

The issues raised by the Mazars subpoena are important and unprecedented. They raise serious constitutional issues that should be properly resolved in court. Efforts to obtain the President's tax returns are the subject of litigation in the United States Court of Appeals for the Second Circuit, the United States

Christopher Conroy  
September 18, 2019  
Page 2

Court of Appeals for the District of Columbia Circuit, and the United States District Court for the District of Columbia. The issues at stake are simply too significant to place Mazars in the untenable position of producing the President's tax returns on September 19th or being held in contempt.

Resolution of this matter of first impression will set the course for future occupants of the Oval Office. It should be handled prudently. That is why the House Oversight Committee agreed to suspend enforcement of its subpoena to Mazars so the constitutional dispute could be litigated in an orderly fashion without burdening courts with requests for emergency relief. It would be deeply troubling if your office is unwilling to do the same here.

We respectfully request that you approach this matter with the same rectitude and courtesy Congress did when it issued subpoenas for the President's records to Mazars, Capital One, and Deutsche Bank: suspend enforcement of the subpoena to Mazars so the President of the United States can be heard in court. No prejudice will accrue to your office - your investigation appears to be historical, there is no danger of spoliation, and there is no urgency to the matter.

Finally, your blanket refusal to grant a brief extension to Mazars is inconsistent with how state and federal investigations typically proceed. The undersigned counsel has vast experience in these matters and we, collectively, do not recall an instance where at least one brief adjournment was not granted while the parties explored their legal and negotiation options. Ignoring these normal practices smacks of selective enforcement against the President.

Thank you again for meeting and for arranging a meeting with the District Attorney. We look forward to hearing from you in writing by 1pm on September 18th, and to working with you on this matter in a professional, orderly fashion.

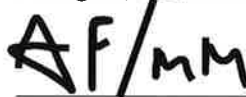
Very truly yours,



Marc L. Mukasey  
Founding Partner  
Mukasey Frenchman & Sklaroff LLP  
140 East 45th Street  
New York, New York 10017



William S. Consavoy  
Consavoy McCarthy PLLC  
1600 Wilson Blvd., Ste. 700  
Arlington, VA. 22209



Alan S. Futerfas  
565 Fifth Avenue  
New York, New York 10017

cc: Cyrus R. Vance Jr., District Attorney  
ADA Solomon Shinerock